



REQUEST FOR PROPOSAL

FOR

**WORKERS' COMPENSATION THIRD PARTY
ADMINISTRATOR**

Must be received no later than:

THURSDAY, APRIL 1, 2021 @ 2:00 p.m.

Proposals Should Be Delivered to:

City Clerk's Office
123 Main Street
P.O. Box 520
Pleasanton, CA 94566

INTRODUCTION

The City of Pleasanton (the "City") is seeking experienced and qualified Third Party Administrator (TPA) to provide cost effective workers' compensation claims administration. The City invites all qualified TPAs to submit a proposal in accordance with the requirement outlined in this request for proposal. The contract period shall be for three years, with the option to renew for two successive year terms. Renewals will be mutually agreed upon by both parties.

BACKGROUND

The City of Pleasanton, with a population of just over 81,000, is situated 45 minutes southeast of San Francisco. Pleasanton is a full service City and employs a workforce of about 465 permanent employees and 400+ temporary staff members. Additional information regarding the City of Pleasanton may be obtained at www.cityofpleasantonca.gov.

Currently, the City's third party administrator is Innovative Claim Solutions, Inc. (ICS). ICS administers the workers' compensation program which also includes the coordination of following services: Bill Review, Utilization Review, and Nurse Case Management. ICS makes recommendations regarding any outside service providers to be utilized and the City pays for these services based on individual case need/requirements. Details of the current program are listed below:

Current Pending Claim Volume

Medical Only: 10
Active Indemnity: 107
Future Medical: 40

Annual New Claim Volume

Medical Only: 36
Indemnity: 56

Excess Insurance

Potential workers' compensation excess cases shall be reported in accordance with the reporting criteria established by the Bylaws of Local Agency Workers' Compensation Excess Joint Powers Authority (LAWCX). We attach directly to LAWCX, and are not currently participating in any other pool. Our SIR level is \$1,000,000.

Litigation

Our litigation rate is 9.1%; closing ratio is 137%

Bill Review Information (FY2020)

- a. The City received 2,007 bills
 - b. Annual bill review cost was \$148,113
 - c. The total paid out in medical was \$639,662
- *We do not pay a PPO access fee

Caseload Requirement

Each adjuster shall have a caseload not to exceed 175 open indemnity claims, which includes future medical cases. Each claims assistant, future medical clerk, or junior adjuster shall have a caseload not to exceed 200 open claims. The supervisor shall have a caseload not to exceed 30 open indemnity claims.

Utilization Review and Peer Review

Utilization Review (UR) is required in specific situations during the claim process. The TPA shall be responsible for evaluating situations that may require and/or benefit from referral to either an internal/affiliated UR activity or non-affiliated UR vendor. While the City retains ultimate responsibility for claims, it is expected that experienced adjusters will make most first line UR decisions and defer to formal UR assessment when an appropriate medical expertise is needed or when required by statute. 123 cases were referred last year for Utilization/Peer review. The total fees incurred were \$36,330.

Medical Provider Network (MPN)

The City does not have an MPN. Currently the City contracts with Valley Care Occupational Health in Pleasanton.

TENTATIVE SCHEDULE FOR SELECTION PROCESS

Event	Date/Time
Issue Date of Solicitation	March 4, 2021
Deadline for Receipt of Proposal	April 1, 2021
Review Period of Proposals	April 5 – 9, 2021
Interviews (top finalist[s])	April 26 – 30, 2021
Vendor Selection Date	May 4, 2021
Recommendation to Counsel	May 18, 2021

CONTACTS

Any administrative questions regarding bidding procedures and to the project management should be directed to:

James Peavey, Human Resources Manager at (925) 931-5054; jpeavey@cityofpleasantonca.gov

AWARD OF CONTRACT

The City reserves the right to reject any and all proposals, to contract work with whomever and in whatever manner the City decides, to abandon the work entirely and to waive any informality or non-substantive irregularity as the interest of the City may require and to be the sole judge of selection process. The City also reserves the right to negotiate separately in any manner to serve the best interest of the City. The City retains the right at its sole discretion to select a successful vendor.

SELECTION PROCESS

A review committee will evaluate all responses to the RFP that meet the submittal requirements. The review committee will rank the proposals and arrange interviews with the finalists prior to selection.

The review committee will consider the following criteria when evaluating the proposals:

- Demonstrated experience in the Workers' Compensation and Risk Management field
- Demonstrated relationships with medical providers
- Innovative approach to reducing claims
- Demonstrated competent, knowledgeable and sufficient staffing levels
- Familiarity with the City of Pleasanton and its Council goals, priorities, etc.
- Prior experience in Pleasanton and/or similar cities

Other factors such as quality and thoroughness of the proposal; quality and thoroughness of the interview; references (including at least three municipalities); and cost proposal will also be measured in the final evaluation.

A mutually acceptable contract will be negotiated between the City and the TPA. The TPA will be required to comply with the City's nondiscrimination and affirmative action provisions. The consultant will also be required to carry insurance in the amount of \$1,000,000 for each of the following: general liability, automotive liability, workers' compensation, and employer's liability. Professional liability insurance for errors and omissions will also be required. The firm selected must have a valid City of Pleasanton business license while conducting any work under this contract for each year of the contract term (see Exhibit A).

If the City and the selected consultant team cannot agree on a satisfactory contract, the City reserves the right to terminate negotiations. The City will then negotiate an agreement with the consultant team which ranked second. It is expected that the TPA will be able to begin work on July 1, 2021.

REQUIRED ELEMENTS OF SUBMITTALS

I. Submission Requirements and Instructions

All bidder requirements in this section are **mandatory**. The City reserves the right to waive any non-material variation.

Submit one original proposal package, four complete copies for each proposal, under sealed envelope, by mail or hand-delivery to the address shown on the front and one electronic copy in .pdf file format. Each submission must be marked on the outside with the Company's name and the name of the project. Postmarks are NOT acceptable.

II. Proposal Outline and Content

Assemble and submit each proposal in the order below with the required content/questions addressed. The order in which items are presented is important, as proposal evaluators will follow this order:

BIDS CONSIDERED RESPONSIVE WILL MINIMALLY ADDRESS EACH OF THE TOPICS AND SUB-TOPICS BELOW. ALL INFORMATION IN THE PROPOSAL MUST BE PRESENTED IN THE FOLLOWING SEQUENCE:

- a) Table of Contents
- b) Cover Sheet. This sheet will serve as the cover of your proposal and must be signed by an officer authorized to bind the company.
- c) Company Description (not to exceed three pages)
 - Describe your organization. Include history, ownership, location of headquarters and satellite offices, size and structure of the organization.
 - Brief history of the company that includes the date of establishment and examples of relevant prior bids and current customers of similar attributes to the City of Pleasanton.
 - Legal name and address; if company is wholly owned subsidiary of a "parent company", identify the "parent company"; legal form of company (partnership, corporation, joint venture, etc.); the office that will be servicing the City if there are multiple locations.
- d) Qualification/Capability (not to exceed 20 pages)

- Describe your experience and capacity to manage projects of the same size and scope.
 - Scope of work for each Personnel to describe the caseload for every person assigned to handle claims.
 - Describe the extent to which City staff support will be required.
 - Describe any value added services such as web-based applications that enables the injured worker to access the claim forms, complete and submit them online.
 - Provide evidence to demonstrate your organization's financial viability. Please enclose an audited financial statement for each of the past two fiscal years.
- e) Personnel Qualifications (provide resume for officers and key personnel that will be assigned)
- A list of staff assigned to the account including the name, title, professional profile/credentials.
 - Describe the resources within your organization dedicated to management and treatment of workplace injuries. Include a Program organizational chart with names and titles of key individuals shown. Please provide a brief biographical sketch of key Program personnel.
 - Experience in adjusting California public agency claims, in particular municipal government (City or County) claims, and years of service with the firm.
 - The selected TPA shall not substitute the principal account representative(s) without prior approval from the City's Human Resources Director. The principal account representative will be expected to be fully involved and conversant in the details of claims administration on a day-to-day basis.
- f) References (minimum three) specifically in local/municipal/county/state agencies
- Name of agency
 - Contact name to include: title, phone number and e-mail
 - Population of jurisdiction
 - Number of employees
 - Project start and completion date
 - Brief summary of project
- g) Cost
- Detailed information on the deliverables and the FIXED FEE for each of the three years of the contract and the option of renewing for two successive one-year terms.
 - Identify which areas of proposal you deem as OPTIONAL with a reference to the pricing for optional services.

ADDITIONAL INFORMATION

Requests for Supplemental Information

The City reserves the right to require the submittal of additional information that supplements or explains proposal materials.

Rejection of Proposals

The City also reserves the unqualified right to reject any or all proposals.

Reimbursement of Costs

No reimbursement whatsoever will be made by the City of any costs incurred by TPAs candidates related to the preparation or presentation of proposals.

Withdrawal of RFP

Bid proposal may be withdrawn by the bidder prior to the time fixed for the opening of bids, but may not be withdrawn for a period of 90 days after the opening of bids. A successful bidder shall not be relieved of the bid submitted without the City's consent or bidder's recourse to Public Contract Code sections 5100 et. seq.

Transfer of Interest

No interest in the contract shall be transferred to any other party without permission of the City.

Public Record

All responses to the Request for Proposal will become the property of the City. Once a final award is made, all bid responses, except financial and proprietary information, become a matter of public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act.

SCOPE OF SERVICES

The scope of work under the proposed agreement may include, but is not limited to the following:

A. Claims Administration

1. Accept injury reports 24 hours a day with trained professionals, and forward the appropriate information within a reasonable amount of time to a claims representative.
2. Determine liability for claimed injuries and illnesses in accordance with California Workers' Compensation Laws.
3. Review and process all claims in accordance with rules and regulations established by the Division of Industrial Relations, Department of Self-Insurance Plans.
4. Evaluate any open claim and make recommendations to the City as to their proper disposition in accordance with applicable.
5. Establish files containing medical and factual information on each reported claim together with complete accounting records and maintain same in accordance with statutory time requirements. Act as custodians on behalf of the City.
6. Compute and pay temporary disability benefits to injured or ill employees based on earnings information and authorized disability periods in a timely manner.
7. Determine nature and extent of permanent disability and arrange for informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.
8. Explain to and assist employee in completing necessary forms for permanent disability ratings.
9. Review, compute and pay all informal ratings, findings and awards, life pensions or compromise and release settlements.
10. Maintain and establish reserve estimates for each reported claim.
11. Arrange for and supervise all necessary investigations to determine eligibility for compensation benefits and/or liability of negligent third parties.
12. If the City of Pleasanton selects an excess reinsurance carrier, the TPA will report all excess claims to excess reinsurance carrier.
13. Arrange and supervise rehabilitation services where indicated.
14. Arrange for and set up system for payment of benefits and allocated expenses in accordance with City of Pleasanton's needs.
15. Prepare with the assistance of the City of Pleasanton all reports, which are now, or will be required by the State of California or other government agencies with respect to self-funded programs.
16. Prepare reports as required by the City for presentation at quarterly Workers' Compensation Reconciliation meetings.
17. Attend monthly case management discussions along with the case managers to review cases of a complex nature and/or cases which require team decisions and thought.
18. Provide access to Computer Based Claim System to HR Coordinator and other staff as designated by the Human Resources Manager.
19. Work with the HR Coordinator to track and monitor trends relating to types of injuries, locations of injuries, length/severity of injuries in order to provide a safe work environment for the City of Pleasanton employees.
20. Provide assistance, as requested, to the City in preparation of annual self-insurance renewal filings.

21. Provide the Human Resources Manager or their designee, program performance on a quarterly basis outlining key performance indicators as required by this agreement.
22. Meet with the Human Resources Manager or their designee, program and contract costs to include medical expenses, program costs (i.e. IME), and administrative costs (i.e. deposition, surveillance, court reports, drug & alcohol testing, etc.).

B. Medicare Reporting Medicare Agent Services

1. Serve as reporting agent submitting reports on behalf of its Responsible Reporting Entity (RPE) clients.
2. Work with in-house IT staff to identify and define data elements required for reporting.
3. Obtain Medicare beneficiary status through CMS monthly query.
4. Support customer's needs and avoid potential fines through:
 - Accurate determination of beneficiaries
 - Potential fees related to beneficiary determination
 - Data integrity
 - On-going quarterly reporting

C. Medical Management

1. Select, with City of Pleasanton's approval, a panel of general practitioners, specialists, hospitals and emergency treatment facilities to which injured employees should be referred. Review and update panel on a regular basis.
2. Provide the City with a predictable Workers' Compensation budget and continue to contain the City's costs.
3. Authorize, review and monitor all medical treatment required on injury or illness claims. Audit and pay all medical expenses.
4. Maintain close contact with treating physicians to ensure employees receive proper medical treatment and are returned to full employment at earliest date.
5. Arrange for medical-legal counsel where indicated.
6. Consult frequently with City of Pleasanton in those cases where injury residual might involve restriction and/or retirement potential.

D. Legal Administration

1. Refer litigated cases to attorneys recommended by TPA and approved by City of Pleasanton for purposes of defending City of Pleasanton's interests before Workers' Compensation Appeals Board and the court.
2. Work closely with counsel in preparing defense of litigated cases.
3. Obtain City of Pleasanton's authorization on all settlements or stipulations when required.
4. Work closely with applicant's attorney and legal counsel in informal dispositions of litigated cases.
5. Attend, when required, Workers' Compensation Appeals Board hearings.
6. Discharge on behalf of City of Pleasanton, all legal obligations to its injured employees imposed by Workers' Compensation Appeals Board and higher courts.
7. Protect and preserve City of Pleasanton's interests in all potential subrogation cases.

E. Employee Services

1. Develop with City of Pleasanton, materials which will provide information and guidance to employees regarding Workers' Compensation Claims Administration.
2. Meet and confer with City of Pleasanton to review and update them on Workers' Compensation benefits.
3. Meet with and assist injured employees in resolving problems that arise from injury or illness claims.
4. Develop and recommend policies and procedures in areas such as pre-employment physicals, work restrictions, return to work programs and disability retirement.

F. Statistical

1. Report to City of Pleasanton, monthly status of claim payments and reserves on an individual claim basis and in the aggregate.
2. Report to City of Pleasanton, quarterly loss analysis of claims filed by frequency and severity.
3. Assist in the preparation of all reports required by the State of California or other Governmental agencies relating to Workers' Compensation claims.
4. Provide the following reports on a monthly basis at minimal at City of Pleasanton's discretion.
 - o Claim Logs
 - o Claim Activity
 - o Claim Cost Detail
 - o Claim Cost Summary
 - o Claim Cost Summary by Year
 - o Examiner Activity
 - o Examiner Case Log
 - o Frequency Reports
 - o Location Summary
 - o Management Summary
 - o Multiple Claims Listing
 - o Occurrence Cost
 - o OSHA Reporting/Requirements
 - o Payment Type Totals
 - o Vendor Payments Detail
 - o Vendor Payments Summary
 - o State Annual Report
 - o Ad-hoc reports as requested within 24 hours of request unless programming is required and then within a reasonable time.

G. Banking Services

The City of Pleasanton will establish, fund and replenish an account at a financial institution of its choice for the purpose of paying benefits to workers or care providers and to pay Allocated Loss Adjustment. TPA will monitor and maintain account, with monthly reports to the City of Pleasanton.

H. Transition

To ensure an orderly transition, the City may require the following:

1. As part of the response, TPA must submit an Implementation Plan which the City can immediately implement after vendor selection, describing all requirements for the City to change its panel of providers. Monthly fixed price payments to the TPA by the City will commence after the contract had been signed by all involved parties, and continue thereafter.
2. At the inception of the contract, the TPA will assume medical management responsibilities for all open claims and any new or reopened claims. The City will provide assistance in gathering required information and documentation.
3. Additional cost incurred by the TPA for the transition of existing medical care records and cases during the transition period must be quoted separately and should not be included in the annual fee quoted by the TPA. A detailed description of any such additional costs must be provided to the City.

BASE CONTRACT PRICING

It is the City's intention to contract with one TPA to provide all of the services outlined in this RFP. The City requires the TPA to assume full responsibility for coordinating and delivering the services outlined herein.

In establishing the price for this proposal, the TPA should not include any costs that will be incurred to provide the service outlined during the transition period. The TPA is required to list its charges for transition period services separately.

As part of the response to this section, the TPA must disclose all assumptions used in establishing its price. Such assumptions shall include, but are not limited to, the number, type and duration of injuries expected each year, the number of patient service visits expected, the number of claims expected to open and close under Workers' Compensation, a schedule of costs for all medical services, increase in costs for subsequent years, set up costs, etc.

Include details in identifying all fixed price costs. List any services that will be provided at an additional cost to the basic fee quote, and what the cost will be (e.g. field investigation, hearing representatives, bill audit, or other). Consider the following if applicable:

- Claims Administration
- Medical Care
- Physical Therapy and Rehabilitation costs
- DME Cost
- Prescription Cost
- IME Cost
- TPA Medical Coordinator
- Actuarial Report
- Drug and Alcohol Testing
- Nurse Case Management

EXHIBIT A

City Professional Services Agreement

It is recognized that the formal basis of any agreement between the City and the service provider is a contract rather than a proposal. In submitting proposals, Proposers must indicate that they are prepared to complete the City's Professional Services Agreement, which is presented on the following pages.

The selected Proposer will be expected to accept these terms and conditions unless they otherwise take exception in their cover letter.

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into this ____ day of _____ 202_, between the CITY OF PLEASANTON, a municipal corporation ("City"), and _____, a (insert type of business entity here e.g. corporation, sole proprietorship etc.) whose address is _____, and telephone number is _____, ("Consultant").

RECITALS

A. Consultant is qualified to and experienced in providing _____ services for the purposes specified in this Agreement.

B. City finds it necessary and advisable to use the services of the Consultant for the purposes provided in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions in this Agreement, City and Consultant agree as follows:

1. **Consultant's Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in Exhibit A. Consultant shall provide said services at that time, place and in the manner specified in Exhibit A.
2. **City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A, Consultant shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. City shall furnish to Consultant only the facilities and equipment listed in Exhibit A according to the terms and conditions set forth in Exhibit A.
3. **Terms.** This contract shall commence on the date written above and shall expire on _____.
4. **Compensation.** City shall pay Consultant for services rendered pursuant to this Agreement as described more particularly in Exhibit A. The payments shall be made on a monthly basis upon receipt and approval of Consultant's invoice. Total compensation for services and reimbursement for costs shall not exceed \$_____.
 - a. Invoices submitted to City must contain a brief description of work performed, time used and City reference number. Payment shall be made within thirty (30) days of receipt of Consultant's invoice and approved by City.
 - b. Upon completion of work and acceptance by City, Consultant shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by

City upon receiving a written request thirty (30) days in advance of said time limitation. The City shall have no obligation or liability to pay any invoice for work performed which the Consultant fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after the work is accepted by the City.

5. **Sufficiency of Consultant's Work.** All work product and all other documents prepared by Consultant shall be adequate and sufficient to meet the purposes for which they are prepared.

6. **Ownership of Work.** All work product and all other documents completed or partially completed by Consultant in the performance of this Agreement shall become the property of the City. All materials shall be delivered to the City upon completion or termination of the work under this Agreement. If any materials are lost, damaged or destroyed before final delivery to the City, the Consultant shall replace them at its own expense. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment. Consultant shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Agreement and shall not be disclosed to anyone not connected with these services, unless the City provides prior written consent.

7. **Changes.** City may request changes in the scope of services to be provided by Consultant. Any changes and related fees shall be mutually agreed upon between the parties and subject to a written amendment to this Agreement.

8. **Consultant's Status.** In performing the obligations set forth in this Agreement, Consultant shall have the status of an independent contractor and Consultant shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of Consultant are its agents and employees and are not agents or employees of City.

9. **Termination for Convenience of City.** The City may terminate this Agreement at any time by mailing a notice in writing to Consultant. The Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the work actually completed at the time the notice of termination is received.

10. **Non-Assignability.** The Consultant shall not assign, sublet, or transfer this Agreement or any interest or obligation in the Agreement without the prior written consent of the City, and then only upon such terms and conditions as City may set forth in writing. Consultant shall be solely responsible for reimbursing subcontractors.

11. **Indemnity and Hold Harmless.** Consultant shall defend, indemnify, and hold harmless, the City and its officers, agents and employees from and against all claims, losses, damage, injury, and liability for damages arising from, or alleged to have arisen from, errors, omissions, negligent or wrongful acts of the Consultant in the performance of its services under this Agreement, regardless of whether the City has reviewed or approved the work or services which has given rise to the claim, loss, damage, injury or liability for damages. This indemnification shall extend for a reasonable period of time after completion of the project as well as during the

period of actual performance of services under this Agreement. The City's acceptance of the insurance certificates required under this Agreement does not relieve the Consultant from its obligation under this paragraph.

12. **Insurance.** During the term of this Agreement, Consultant shall maintain in full force and effect, at its own cost and expense, insurance coverages with insurers with an A.M. Best's rating of no less than A:VII. Contractor shall have the obligation to furnish City, as additional insured, the minimum coverages identified below, or such greater or broader coverage for City, if available in the Contractor's policies:

a. **General Liability and Bodily Injury Insurance.** Commercial general liability insurance with limits of at least \$2,000,000 combined limit for bodily injury and property damage that provides that the City, its officers, employees and agents are named as additional insureds under the policy as evidenced by an additional insured endorsement satisfactory to the City Attorney. The policy shall state in writing either on the Certificate of Insurance or attached rider that this insurance will operate as primary insurance for work performed by Consultant and its subconsultants, and that no other insurance effected by City or other named insured will be called on to cover a loss.

b. **Automobile Liability Insurance.** Automobile liability insurance with limits not less than \$2,000,000 per person/per occurrence.

c. **Workers' Compensation Insurance.** Workers' Compensation Insurance for all of Consultant's employees, in strict compliance with State laws, including a waiver of subrogation and Employer's Liability Insurance with limits of at least \$1,000,000.

c. **Professional Liability Insurance.** Professional liability insurance in the amount of \$2,000,000.

d. **Certificate of Insurance.** Consultant shall file a certificate of insurance with the City prior to the City's execution of this Agreement, and prior to engaging in any operation or activity set forth in this Agreement. The Certificate of Insurance shall provide in writing that the insurance afforded by this Certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without providing notice to the City in accordance with California Insurance Code section 677.2 which requires the notice of cancellation to: 1) include the effective date of the cancellation; 2) include the reasons for the cancellation; and 3) be given at least 30 days prior to the effective date of the cancellation, except that in the case of cancellation for nonpayment of premiums or for fraud, the notice shall be given no less than 10 days prior to the effective date of the cancellation. Notice shall be sent by certified mail, return receipt requested. In addition, the insured shall provide thirty (30) days prior written notice to the City of any cancellation, suspension, reduction of coverage or in limits, or voiding of the insurance coverage required by this agreement. The City reserves the right to require complete certified copies of policies.

e. **Waiver of Subrogation.** The insurer agrees to waive all rights of subrogation against the City, its officers, employees and agents.

f. **Defense Costs.** Coverage shall be provided on a “pay on behalf of” basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusions.

g. **Subcontractors.** Consultant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited naming additional insureds.

13. **Notices.** All notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To Consultant: _____

To City: City Manager
City of Pleasanton
P.O. Box 520
Pleasanton, CA 94566

14. **Conformance to Applicable Laws.** Consultant shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Consultant shall not discriminate in the employment of persons or in the provision of services under this Agreement on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

15. **Licenses, Certifications and Permits.** Prior to the City’s execution of this Agreement and prior to the Consultant’s engaging in any operation or activity set forth in this Agreement, Consultant shall obtain a City of Pleasanton business license, which must be kept in effect during the term of this Agreement. Consultant covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Agreement.

16. **Records and Audits.** Consultant shall maintain all records regarding this Agreement and the services performed for a period of three years from the date that final payment is made. At any time during normal business hours, the records shall be made available to the City to inspect and audit.

17. **Confidentiality.** Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City reports, information or conclusions.

18. **Conflicts of Interest.** Consultant covenants that other than this Agreement, Consultant has no financial interest with any official, employee or other representative of the City. Consultant and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner of degree by the performance of Consultant’s services under this Agreement. If such an interest arises, Consultant will immediately notify the City.

19. **Waiver**. In the event either City or Consultant at any time waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or of any other covenant, condition or obligation.

20. **Governing Law**. California law shall govern any legal action pursuant to this Agreement with venue in the applicable court or forum for Alameda County.

21. **No Personal Liability**. No official or employee of City shall be personally liable to Consultant in the event of any default or breach by the City or for any amount due Consultant.

22. **Exhibits**. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

23. **Counterparts and Electronic Signatures**. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with U.S. federal E-Sign Act of 2000 (15 U.S. Code §7001 et seq.), California Uniform Electronic Transactions Act (Cal. Civil Code §1633.1 et seq.), or other applicable law) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

24. **Scope of Agreement**. This writing constitutes the entire Agreement between the parties. Any modification to the Agreement shall be in writing and signed by both parties.

THIS AGREEMENT executed the date and year first above written.

CITY OF PLEASANTON

CONSULTANT

Nelson Fialho, City Manager

By: _____
Signature

ATTEST:

Print name

Karen Diaz, City Clerk

Its: _____
Title

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney

Rev. 8/20